

1 UNITED STATES COURT OF APPEALS
2 FOR THE SECOND CIRCUIT

3 SUMMARY ORDER

4 THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL
5 REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO
6 THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION
7 OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS
8 CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF
9 COLLATERAL ESTOPPEL OR RES JUDICATA.

10 At a stated term of the United States Court of Appeals
11 for the Second Circuit, held at the Daniel Patrick Moynihan
12 United States Courthouse, 500 Pearl Street, in the City of
13 New York, on the 15th day of September, two thousand and
14 six.

15 PRESENT: HON. RICHARD J. CARDAMONE,
16 HON. ROGER J. MINER,
17 HON. DENNIS JACOBS,

18 Circuit Judges,

19 - - - - - X
20 WANDA SMIAROWSKI,

21 Plaintiff-Appellant,

22
23
24 -v.-

No. 05-6259-cv

25 PHILLIP MORRIS USA,

26
27 Defendant-Appellee.

28 - - - - -
29 X

1
2 **APPEARING FOR APPELLEE:** ALLAN S. BLOOM, Paul, Hastings,
3 Janofsky & Walker, LLP
4 (Jacqueline M. Ceurvels, on the
5 brief), New York, NY, for
6 Appellee.

7 Appeal from a judgment of the United States
8 District Court for the Southern District of New York
9 (Castel, J.), entered July 6, 2005.

10 **UPON DUE CONSIDERATION, it is ORDERED, ADJUDGED,**
11 **AND DECREED** that the judgment of the district court is
12 **AFFIRMED.**

13 Plaintiff Wanda Smiarowski claims that defendant
14 discriminated against her on the basis of age in
15 declining to interview or hire her. We assume
16 familiarity with the facts, the procedural history, and
17 the issues on appeal. This Court reviews a grant of
18 summary judgment de novo. Mackey v. Bd. of Educ., 386
19 F.3d 158, 163 (2d Cir. 2004).

20 To survive summary judgment, Smiarowski must
21 establish a prima facie discrimination case by
22 adducing facts or circumstances giving rise to an
23 inference of discrimination. Defendant's request for
24 plaintiff's year of entry into the workforce--a
25 question bearing on work experience--does not alone
26 support such an inference.

27 For the foregoing reasons, the judgment of the
28 district court is affirmed.
29

30 FOR THE COURT:
31 ROSEANN B. MACKECHNIE, CLERK
32 By:

33 _____
34 Richard Alcantara, Deputy Clerk